

MEMORANDUM

March 9, 2005

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: ROGER H. GRANBO
Principal Deputy County Counsel
General Litigation Division

RE: Claim of Valerie Byrnes

DATE OF
INCIDENT: August 15, 2004

AUTHORITY
REQUESTED: \$45,436.53

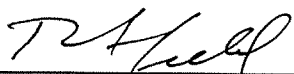
COUNTY
DEPARTMENT: Department of Public Works - Sewer Maintenance

CLAIMS BOARD ACTION:

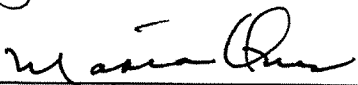
☒ Approve

☐ Disapprove

☐ Recommend to Board of
Supervisors for Approval


_____, Chief Administrative Office
ROCKY A. ARMFIELD


_____, County Counsel
JOHN F. KRATTLI


_____, Auditor-Controller
MARIA M. OMS

on March 21, 2005

SUMMARY

This is a recommendation to settle for \$45,436.53 a claim for dangerous condition of public property and inverse condemnation, filed by Valerie Byrnes, whose home was damaged by sewage that flowed into her home from a sewer line maintained by the County.

LEGAL PRINCIPLES

The County is liable for injuries caused by a dangerous condition of its property if the property was in a dangerous condition at the time of the injury, the injury was caused by the dangerous condition, the dangerous condition created a foreseeable risk of the type of injury that was suffered, and the County had actual or constructive notice of the dangerous condition.

The County is liable under the law of inverse condemnation for damage caused to property, when the damage was caused by a public improvement as deliberately designed, and construed by the County, whether or not the damage was foreseeable. Inverse condemnation liability can be based on an improper maintenance plan of the County. A prevailing plaintiff in an inverse condemnation action is entitled to an award of reasonable attorney fees.

SUMMARY OF FACTS

On August 15, 2004, a County maintained sewer line in Altadena backed up into the lateral sewer line of Valerie Byrnes' home. Raw sewage flooded into her bathroom, and spread throughout the home. The sewer line had become clogged by tree roots and rocks, which caused the sewage to travel into the lateral sewer line. The flooding caused extensive damage to the floors, walls, and personal property in the home.

The County had a preventative maintenance program in place in the neighborhood that consisted of routine inspections every six months. As a result of this incident, the sewer line at this location was put on a 90-day periodic inspection.

DAMAGES

Should this matter proceed to trial, we estimate the potential damages could be as follows:

Property damage repair	\$ 41,436.53
Lost Earnings	\$ 4,000.00
Diminution in property value	\$ 50,000.00
Attorney fees and costs	<u>\$ 50,000.00</u>
Total	<u>\$145,436.53</u>

The proposed settlement calls for the County to pay Valerie Byrnes \$45,436.53 for all of her claims for damages, costs, and attorney fees.

STATUS OF CASE

The case is at the claim stage, no lawsuit has been filed.

There are no expenses or legal fees incurred by the County in defense of this action at this time.

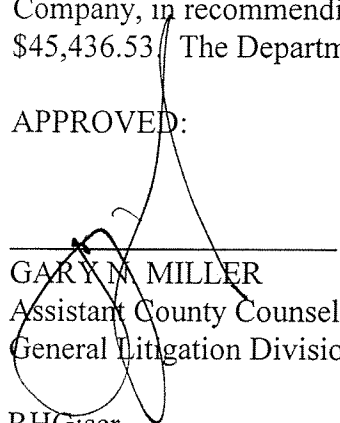
EVALUATION

The County did not have actual or constructive notice of the blockage in the sewer line. However, a jury could find that the County's sewer maintenance plan was defective because the visual inspections were not sufficient to detect or prevent blockage in the sewer line. If the jury finds the plan was defective, the County would be liable under the inverse condemnation cause of action.

A reasonable settlement at this time will avoid further litigation costs, and a jury verdict, along with attorney fees, that could exceed the proposed settlement.

We join with our third party administrator, Carl Warren and Company, in recommending a settlement of this matter in the amount of \$45,436.53. The Department of Public Works concurs in the recommendation.

APPROVED:



GARY M. MILLER
Assistant County Counsel
General Litigation Division

RHG:scr